

Message Text

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42

ACTION FBO-05

INFO OCT-01 NEA-10 ISO-00 A-01 L-03 TRSE-00 ABF-01 /021 W

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R 150800Z JUL 75

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 9946

LIMITED OFFICIAL USE NEW DELHI 9473

PASS FBO

EO: 11652: NA

TAGS: EFIN, IN

SUBJ: RUPEES: GENERATORS

REF: STATE 158092, NEW DELHI 9089

1. DRAFT COPIES OF AMENDMENT TO GENERATOR CONTRACT
RECEIVED TODAY. EMBASSY COMMENTS FOLLOW:

2. NEEDLESS TO SAY WE WOULD NOT HAVE DRAFTED THE
HISTORY OF THE TRANSACTION IN QUITE THE SAME WAY AS
WAS DONE BUT WE WOULD CONCUR THAT THIS IS NOT IMPORTANT.

WE DO HOWEVER, HAVE SUBSTANTIVE PROBLEMS WITH IIIC.
IT WOULD BE ILLEGAL FOR THE EMBASSY TO MAKE PAYMENT
TO SAREEN WITHOUT THE SPECIFIC PERMISSION OF THE GOI.
LANDE SO INFORMED CHARLES SWAN LAST MONTH AND SWAN
STATED THAT IT WOULD BE UP TO SHYROW TO PAY SAREEN.
(WE WOULD HAVE NO OBJECTION TO THIS.)

3. LEAVING ASIDE THIS LEGAL QUESTION, WE FIND IT
DIFFICULT TO BELIEVE THAT SHYROW HAS \$55 THOUSAND IN
EXISTING "RUPEE DEBT OBLIGATIONS". WE SHALL DISCUSS
THIS MATTER WITH SAREEN.

4. IN VIEW OF PARAGRAPH IIIC1 WE DO NOT UNDERSTAND
THE MEANING OF PARAGRAPH IIIC2. WHAT ANOTHER LOCAL
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EXPENSES AND DEBT, INCLUDING LEGAL FEES" ARE NOT

COVERED BY IIIC1. WE SERIOUSLY QUESTION THE WISDOM OF SIGNING A CONTRACT OBLIGATING THE USG TO PAY AN UNSPECIFIED AMOUNT OF FUNDS AND WOULD PREFER THAT SAREEN ITEMIZE HIS COSTS IN ADVANCE. THIS WOULD PREVENT FUTURE MISUNDERSTANDINGS AND POSSIBLE LITIGATION.

5. WHILE PARAGRAPH IIIB2 DOES NOT RELATE TO ANY ACTION FOR THIS EMBASSY, WE WOULD NOTE THAT \$161,000 REPRESENTS AN APPARENT ROUGHLY 25 PERCENT PROFIT FOR SHYROW OVER TOTAL COST OF THE GENERATORS AND THE AIR FREIGHT (AND EVEN THESE COSTS INVOLVED NO INITIAL PAYMENTS FOR SHYROW). CONSIDERING THE FACT THAT SHYROW ORIGINALLY WAS TO RECEIVE PAYMENT 100 PERCENT IN RUPEES, IT IS DIFFICULT TO IMAGINE SUCH A PAYMENT TO BE IN USG INTEREST. IF SUCH A PAYMENT IS TO BE MADE THE DEPARTMENT MAY WISH TO REQUIRE SHYROW TO UTILIZE PART OF IT TO PAY SAREEN AND OTHER INDIAN COSTS.

6. ACTION REQUESTED: THE EMBASSY WILL TAKE NO ACTION TO DISCUSS GENERATORS WITH THE GOI UNTIL THE ISSUE OF RUPEE PAYMENTS TO SAREEN (SEE ABOVE) IS CLARIFIED. PLEASE ADVISE.

7. IN VIEW OF PROPOSED AMENDMENT TO THE CONTRACT WE ARE PUZZLED BY PARA 5 OF STATE'S 158092. AS WE UNDERSTAND THE CONTRACT THE GENERATORS ARE CONFIRMED AS USG PROPERTY AND SHYROW AND ATLANTIC GIVE UP ANY CLAIMS TO THEM. SINCE THIS EMBASSY STILL REQUIRES STAND BY POWER CAPACITY WHY NOT RETAIN AND HOOK UP THE GENERATORS HERE. THIS WOULD ALSO SAVE TRANSPORTATION COSTS.
SAXBE

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Margaret P. Grafeld
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